

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:13-cv-01286

JAGUAR XJ8 VANDEN PLAS 2009

VIN: SAJWA82B99SH30810,

Defendant,

WILLIAM CURTIS MYERS,

Claimant.

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**REPORT AND RECOMMENDATION**

**BACKGROUND**

On July 16, 2013,<sup>1</sup> the FBI seized the subject vehicle pursuant to a forfeiture/seizure warrant issued in the United States District Court for the Western District of Michigan. The warrant was based on probable cause that the defendant vehicle had been purchased with \$30,000 in proceeds from the sale of a stolen motorhome from Midway RV Center in Kentwood, Michigan by Claimant William Curtis Myers's son, Ronald Myers. The special agent who seized the defendant vehicle allegedly provided William Curtis Myers with a property receipt and instructed him that if he had questions or wished to file a claim he should contact the forfeiture unit in the FBI's Detroit Division.

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<sup>1</sup>Claimant disputes this date, claiming that the automobile was not seized until July 24, 2013. At the very least there is a genuine issue of material fact in dispute on this issue. (See Dkt. 12, Exh. 1).

(See Dkt. 12, Exh. 2). The FBI's forfeiture unit then initiated an administrative forfeiture proceeding. On July 18, 2013, Myers allegedly called the forfeiture unit of the Detroit Division to inquire about the process. He spoke with Special Agent Mary Bustamante, the unit's forfeiture coordinator. (See Dkt. 12, Exh. 3). Claimant William Curtis Myers stated that he uses the defendant vehicle to take his wife to her doctor's appointments. During the course of the conversation, Bustamante ascertained that Myers, who is 84 years old, has another vehicle at his disposal. (Id.)

William Curtis Myers made a claim under 18 U.S.C. § 983(f) stating that the continued possession of the vehicle by the United States would cause him and his wife substantial hardship. He stated that the vehicle is necessary to provide transportation to and from doctors appointments, grocery shopping, to and from church, trips to the drugstore, and driving to work, etc. (Id. at ¶4 ; see also Dkt. 12, Exh. 4).

Subsequently, the FBI identified a 2001 Jaguar Vanden, VIN: SAJDA25B51MF29205 registered to claimant and his wife. The registration was confirmed as active. (See Dkt. 12, Exh. 3 at ¶ 5). Claimant's hardship request was denied. The FBI referred the defendant vehicle to the U.S. Attorney for judicial forfeiture consideration. (Id.) The instant civil forfeiture complaint was filed on November 26, 2013. (Dkt. 1, Complaint).

On December 23, 2013, Claimant William Curtis Myers' Motion for Return of Property (Dkt. 6) and Claimant William Curtis Myers' Motion for Dismissal of Civil Forfeiture Proceeding (Dkt. 7) were filed, as well as claimant's Answer (Dkt. 4). A Rule 16 Scheduling Conference was held and a Case Management Order entered on January 31, 2014 (Dkt. 26). Claimant William Curtis Myers' Motion for Return of Property (Dkt. 6) and Claimant William Curtis Myers' Motion for Dismissal

of Civil Forfeiture Proceeding (Dkt. 7) were heard on March 13, 2014. A status conference was scheduled for May 29, 2014.

### DISCUSSION

Claimant William Curtis Myer was allowed to appear by telephone for the May 29, 2014 status conference but did not answer his phone at the time of the conference and thus failed to participate in the conference. Nor did he contact the court until later that afternoon, when he called and reported to Judicial Assistant Cynthia Hosner that he wants to drop his claim. At the status conference, AUSA Joel Fauson stated that claimant had told him that he wished to drop his claim for the subject vehicle. In addition, AUSA Fauson reported that claimant has failed to comply with any deadline in the court's Case Management Order.

### CONCLUSION

For reasons stated on the record at the May 29, 2014 status conference and delineated above, the undersigned concludes that claimant has failed to pursue his claim and recommends that: (1) Claimant William Curtis Myers's motions be dismissed as moot; (2) his claim be denied for want of prosecution; and (3) judgment be entered in the form of the proposed Judgment of Forfeiture filed by the government (Dkt. 40). Claimant is given notice that he shall have 14 days to file any objections to the recommended disposition of this matter.

Respectfully submitted,

Date: June 3, 2014

/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).